

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Elkins Division

FILED

JAN 05 2007

JEREMY C. DUNN,

U.S. DISTRICT COURT
ELKINS WV 26241

Plaintiff,

v.

CIVIL ACTION NO.

2:07cv1

PAMELA SUE NUTTER,

SNOWSHOE MOUNTAIN, INC.

and

INTRAWEST CORPORATION,

Defendants.

COMPLAINT

Jurisdiction

1. Plaintiff is a citizen of Virginia, residing at 8636 Privet Drive, Richmond Virginia 23237.
2. Defendant, Pamela Sue Nutter, is a citizen of West Virginia, with a mailing address of P.O. Box 60 Huttonsville, West Virginia 26273.
3. Defendant Snowshoe Mountain, Inc. is a West Virginia corporation whose main office is located at 10 Snowshoe Drive, Snowshoe, WV 26209.
4. Defendant Intrawest Corporation is a Canadian corporation whose main office is located at Suite 800, 200 Burrard Street, Vancouver, British Columbia V6C3L6.
5. The amount in controversy exceeds, exclusive of interest and costs, Seventy Five Thousand Dollars (\$75,000.00). Jurisdiction is based on 28 U.S.C. §1332.

FACTS

6. On January 8, 2005 at approximately 1:30 A.M., plaintiff was a pedestrian on Snowshoe Drive near its intersection with the Butler Building parking lot in Snowshoe Resort which is located in Pocahontas County, West Virginia, when he was struck by a vehicle driven by Defendant Nutter.

7. At the time and place aforesaid, defendant Nutter was operating a 2001 Ford van and while pulling out of the Butler Building parking lot at its intersection with Snowshoe Drive, in Pocahontas County, West Virginia, caused the vehicle to collide with the plaintiff.

8. At the time and place aforesaid, Defendant Nutter, was operating a Ford van owned by Snowshoe Mountain, Inc. and Intrawest Corporation. Pamela Sue Nutter, at all times relevant hereto, was an employee of Defendant Snowshoe Mountain, Inc. and Intrawest Corporation and was performing duties within the scope of her employment, thereby Snowshoe Mountain, Inc. and Intrawest Corporation are vicariously liable for her actions.

9. At that time and place, it was defendant Nutter's duty to operate her vehicle with reasonable care and with due regard for others using the road, particularly plaintiff Jeremy C. Dunn.

10. Notwithstanding said duties, defendant Nutter did then and there so carelessly and negligently operate her vehicle that it collided with plaintiff resulting in injuries to plaintiff.

11. Defendant Nutter was negligent in that she:

- a. Failed to maintain a proper lookout;
- b. Failed to have her vehicle under proper and adequate control at the

time;

- c. Failed to apply her brakes in time to avoid a collision;
- d. Failed to give her full-time attention to the operation of her vehicle;
- e. Was negligent and reckless at law;
- f. Operated her vehicle without due regard for the rights, safeties, and position of the plaintiff at the point aforesaid;
- g. Violated the statutes of West Virginia governing the operation of motor vehicles; and,
- h. Acted otherwise negligently and recklessly as shall be determined through utilization of Federal Rules of Discovery.

12. As a direct and proximate result of defendant Nutter's breach of duties, plaintiff was caused to sustain serious and permanent injuries, has been prevented from transacting his business, has suffered and will continue to suffer great pain of body and mind and loss of enjoyment of life; has sustained permanent disability, deformity, and loss of earning capacity; has incurred, and will incur in the future, hospital, doctors' and related bills in an effort to be cured of said injuries.

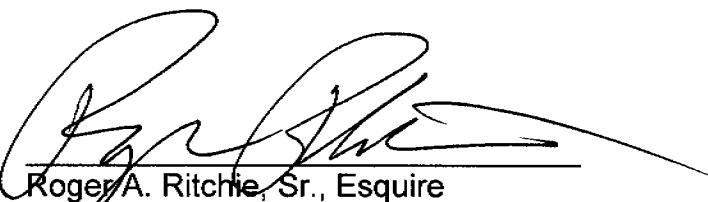
WHEREFORE, plaintiff Jeremy C. Dunn prays for:

- 1. Judgment against the defendants, jointly and severally, in such amount that a jury finds will fully and fairly compensate the plaintiff for the damages suffered by him;
- 2. Plaintiff's costs expended herein, and interest on any judgment from January 8, 2005; and,
- 3. Jury trial is demanded.

JEREMY C. DUNN

By Counsel

By:



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